

NOT FOR PUBLICATION

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

WENDY TUCKER,

Plaintiff,

v.

BOROUGH OF TUCKERTON, et al.,

Defendants.

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CIVIL ACTION NO. 15-8893 (MLC)

MEMORANDUM OPINION

THE COURT ordered the parties to show cause why this action should not be stayed and administratively terminated. (See dkt. 12.) The Court assumes that the parties are familiar with the contents of the Order to Show Cause. (Id.)

THE PLAINTIFF has filed opposition, arguing that: (1) this action should continue despite the criminal charges that are pending against her, because a criminal conviction would not automatically preclude recovery on her claim to recover damages for excessive force; and (2) “Heck cannot be used as a means of dismissing [Plaintiff’s] action”. (See dkt. 15 at 1.) The defendants are in support of a stay, and point out that there are also criminal charges related to the plaintiff’s claims pending against one defendant. (See dkt. 16; dkt. 17.)

THE COURT — for the reasons addressed in the Order to Show Cause — intends: (1) to grant the Order to Show Cause; (2) “in accord with common practice, to

stay the civil action until the criminal case or the likelihood of a criminal case is ended”, Wallace v. Kato, 549 U.S. 384, 393–94 (2007); and (3) to administratively terminate the action pending the disposition of the plaintiff’s criminal charges, including aspects thereof that may be the subject of either an appeal or a review by any municipal or state court. The Court stresses that, contrary to the plaintiff’s argument, her claims are not being dismissed. See Delgrosso v. Spang & Co., 903 F.2d 234, 236 (3d Cir. 1990) (stating an administrative termination is not a final determination, because it “permits reinstatement and contemplates the possibility of future proceedings” and “does not purport to end litigation on the merits”).

FOR GOOD CAUSE APPEARING, the Court will issue an appropriate order.

s/ Mary L. Cooper
MARY L. COOPER
United States District Judge

Dated: March 8, 2016